

NOTARIES, COMMISSIONERS FOR OATHS,
PROVINCIAL JUDGES and JUSTICES OF THE PEACE

As to the Administration of Oaths and Affirmations to be used
within the Province of Alberta

1. General

Affidavits are documents containing statements which are verified by the oath or affirmation of the person making such statements.

"Statutory declarations" are similar documents which are verified by the solemn declaration of the person making the statements contained therein.

An affidavit is a sworn statement in writing made in an action or matter in a Court, or in pursuance of a Statute permitting or requiring the proof of some fact by affidavit.

A "Statutory declaration" is a statement in writing verified by the solemn declaration of the maker, and is made pursuant to the Canada Evidence Act and Alberta Evidence Act and is used in all cases where there is no authority for an affidavit.

"Statutory declaration" is the form of solemn declaration prescribed in the Canada Evidence Act and The Alberta Evidence Act. Both Acts prescribe exactly the same form which is as follows:

"I, A.B. solemnly declare that (state the fact or facts declared to), and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me at
this day of, 19

Affidavits and declarations intended to be used in Alberta must be made before a Notary Public, a Commissioner for Oaths, a Justice of the Peace or a Provincial Judge, in his capacity as a Justice of the Peace.

Affidavits and declarations are used for the purpose of establishing legal rights, and if they are not properly made such legal rights may be impaired or destroyed, to the serious damage of the persons affected thereby.

In order that an Affidavit or Statutory Declaration may be valid it is absolutely essential that the Notary, Commissioner, Provincial Judge, or Justice of the Peace should administer the oath, affirmation or declaration in a legal way.

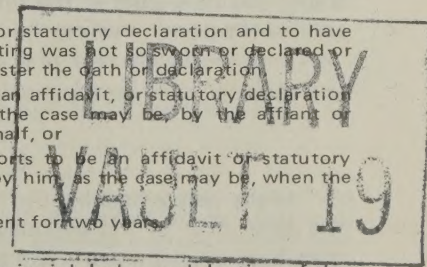
Section 126 of the Criminal Code provides as follows:

Every one who —

- signs a writing that purports to be an affidavit or statutory declaration and to have been sworn or declared before him when the writing was not so sworn or declared or when he knows that he has no authority to administer the oath or declaration,
- uses or offers for use any writing purporting to be an affidavit, or statutory declaration that he knows was not sworn or declared, as the case may be, by the affiant or declarant or before a person authorized in that behalf, or
- signs as affiant or declarant a writing that purports to be an affidavit or statutory declaration and to have been sworn or declared by him, as the case may be, when the writing was not so sworn or declared.

is guilty of an indictable offence and is liable to imprisonment for two years.

For brevity, the Notary, Commissioner for Oaths, Provincial Judge and Justice of the Peace is referred to in this Memorandum as "the Officer."



2. How to Administer the Oath to a Person Taking an Affidavit.

The person making the affidavit shall first sign the same and hand it to the officer, who will then hand to such person a Testament.

If the person making the affidavit is a Jew, a copy of the Old Testament will be handed to him.

The officer will then address the person taking the oath, as follows:

"You have read over this affidavit and are aware of its contents."

If he answers in the affirmative the officer shall then say:

"You swear that this is your name and handwriting, and you swear that the contents of this your affidavit are true. So help you God."

The person taking the oath should then either kiss the Bible, or hold the same up in his right hand, at the same time saying "I do."

3. When and How to Take an Affirmation.

A person who desires to take an affidavit who has religious or conscientious scruples about taking an oath, may affirm. Such person shall first sign his name to the document to be affirmed; he shall then satisfy the officer that he has religious scruples about taking an oath; and as to this, his bare statement to the effect is sufficient. Thereupon the officer shall address the person taking the affidavit as follows:

"You do solemnly, sincerely and truly affirm that this is your name and handwriting, and that the contents of this, your affirmation, are the truth, the whole truth and nothing but the truth."

The person affirming shall then say "I do."

4. How to Take a Statutory Declaration

The person desiring to make a declaration will first sign the same, and will then be addressed by the officer, as follows:

"You have read over this declaration and are aware of its contents."

If he answers in the affirmative the officer shall then say:

"You declare that this is your name and handwriting, and you make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath."

The person making the declaration shall then say "I do".

It will be noted that no oath is administered in the case of declarations.

5. Exhibits.

Frequently affidavits and declarations refer to documents; and such documents are called exhibits, and should be produced to the officer when the affidavit or declaration is made, and he should at the time he administers the oath, affirmation or declaration, also address the person making the affidavit or declaration, as follows:

"Are these the exhibits referred to in your affidavit (or declaration)?"

and thereupon the person making the affidavit or declaration shall say "They are."

6. Blind or Illiterate Deponents.

If the person making the affidavit or declaration cannot write, the officer shall read the same over to the deponent and make sure that he understands the same, and shall then have the deponent make his mark and proceed as in the case of any other document. (For form of Jurat see para 9 (a).)

7. Persons Who Cannot Speak English.

In the case of a deponent who does not understand English, an interpreter must be obtained who knows English and the language of the deponent. The interpreter must first interpret the affidavit or declaration to the Deponent, and then be sworn as follows:

"You swear that you well understand (the language of the deponent) and that you have truly, distinctly and audibly interpreted the contents of this affidavit (or declaration) to the deponent (and of the exhibits therein referred to) and that you will truly and faithfully interpret to him the oath about to be administered to him. So help you God." The interpreter shall then say "I will."

The officer will then address the deponent through the interpreter:

"You swear this is your name and handwriting. You swear that the contents of this affidavit are true. So help you God."

And thereupon the deponent shall through the interpreter say "I do."

The interpreter must sign the affidavit or declaration below the signature of the deponent. (For form of Jurat, see para. 9 (b).)

8. The Duties of the Officer in Completing the Affidavit or Statutory Declaration.

After the deponent has made the oath, affirmation or declaration in one of the manners above indicated, the officer will look over the same, and if he finds any alterations or interlineations he will initial the same, for example:

"R.A.S." fifth January "R.A.S."

I did on the day of 1926.

He will then fill in the Jurat which is the certificate of the making of the affidavit or declaration taking care that the date is correctly set out, and that any alterations or interlineations in the same are initialed by him, and will sign the same, and state after his signature whether he is a Notary Public, a Commissioner for Oaths, or a Justice of the Peace, in and for the Province of Alberta; and if a Notary, will state when his commission expires.

He will then mark each exhibit referred to as follows:

This is Exhibit (No. or "A" as the case may be) referred to in the
(Affidavit) (Statutory Declaration) of (name of deponent in full) sworn (or taken) before me
this day of, 19

(Officer's Signature)
A.B.

.....
(Notary Public, Commissioner for Oaths
or Justice of the Peace.)

If the deponent has affirmed instead of being sworn, the word "sworn" should be struck out of the Jurat and the word "affirmed" should be substituted for it. Be careful to initial the alteration.

9. Jurats.

(a) If the deponent is illiterate or blind, the Jurat should be in the following form:

"Sworn (affirmed) by (name of deponent) before me at
in the Province of Alberta, this day of, 19
"I having first truly, distinctly and audibly read over to him the contents of this affidavit (and explained to him the nature and effect of the exhibit therein referred to) the deponent being (illiterate, or blind) and that the deponent appeared to understand the same and made his mark to this affidavit in my presence."

(Refer to para. 6.)

(b). Jurat when Deponent has no knowledge of English.

If the deponent is sworn through an interpreter, the Jurat should be in the following form:

"Sworn (affirmed) before me at in the Province of Alberta, this day of, 19, by (name of deponent) through the interpretation of (name of interpreter) the said (interpreter's name) having been sworn that he had truly, distinctly and audibly interpreted the contents of this affidavit to the deponent (and the nature and effect of the exhibits therein referred to) and that he would truly and faithfully interpret to the said (deponent) the oath about to be administered to him."

(Refer to para. 7.)

(c). Ordinary Form of Jurat.

Affirmed
Sworn
Declared



by (deponent's name) before me at in the Province of
Alberta, this day of, A.D. 19

(Officer's Signature)

Notary Public Commissioner for Oaths, or
Justice of the Peace in and for the Province of
Alberta.

(In the case of a Notary) My Commission expires on the day of
....., 19

10. Notary Public.

Where the affidavit or declaration is intended to be used in the Province of Alberta, it is not necessary for the Notary to affix his Notarial Seal.

When the affidavit is intended to be used outside of the Province of Alberta, the same is usually required to be taken before a Notary Public, and will not be valid unless the Notary affixes his Seal of Office thereto.

**11. Fees Payable to Commissioners for Oaths and to
Justices of the Peace.**

Upon taking an affidavit or declaration to be used within the Province:

For each Deponent 50c

For marking each Exhibit 20c

12. Fees Payable to a Notary Public.

Upon taking an affidavit or declaration to be used within the Province:

For each Deponent \$1.00

For each Exhibit 20c

Upon taking an affidavit or declaration to be used outside the Province, to which his Seal of Office is affixed:

For each Deponent \$1.50

For each Exhibit 20c

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